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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,315	07/10/2003	Jim D. Kunce	406912	3579
21718	7590	03/14/2007		
LEE & HAYES PLLC SUITE 500 421 W RIVERSIDE SPOKANE, WA 99201			EXAMINER BARAN, MARY C	
			ART UNIT	PAPER NUMBER
			2857	

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	03/14/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 03/14/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

lhpto@leehayes.com

## Office Action Summary

Application No.

10/617,315

Applicant(s)

KUNCE, JIM D.

Examiner

Mary Kate B. Baran

Art Unit

2857

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-31 and 33-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3,9-17 and 23-31 is/are allowed.
- 6) ☒ Claim(s) 4-8,18-22,35,37-46 and 49 is/are rejected.
- 7) ☒ Claim(s) 32,33,36,47 and 48 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 14 April 2006.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

1. The action is responsive to the Amendment filed on 29 November 2006. Claims 1-31 and 33-49 are pending. Claims 1, 33, 34 and 49 are amended. Claim 32 is cancelled.
2. The amendments filed 29 November 2006 are sufficient to overcome the prior 35 U.S.C. 112 second paragraph rejections.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 35-46 and 49 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Pursuant to the Interim Guidelines on Patent Eligible Subject Matter (MPEP 2106), if a claim recites a judicial exception (i.e., an abstract idea, law of nature or physical phenomenon), the claims must recite either a physical transformation and/or a useful, concrete and tangible result. It is the Examiner's position that the claims are directed to abstract ideas. The claims fail to recite a transformation from one physical state to another. Further, although the claims appear useful and concrete, a tangible result is not claimed. Merely "generating results of the statistical analysis" is not sufficient to constitute a tangible result, since the outcome of the generating step has

not been used in a disclosed practical application nor made available in such a manner that its usefulness in a disclosed practical application can be realized. As such, the subject matter of the claims is not patent eligible.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 4-8 and 18-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Beller (U.S. Patent No. 5,852,819).

Referring to claims 4 and 18, Beller teaches receiving user input identifying desired analysis; retrieving user data from a data store (see Beller, column 10 lines 1-14); retrieving the user data from a data store (see Beller, column 27 line 66 – column 28 line 24); reformatting the user data in accordance with the desired analysis (see Beller, column 27 line 66 – column 28 line 24); computing factors for the desired analysis (see Beller, column 21 lines 48-67); formatting output from results of the computation for presentation to the user (see Beller, column 29 lines 59-64); and presenting the output to the user in response to input from the user requesting output presentation (see Beller, Figure 6 “output report 610”), wherein the steps of retrieving and reformatting (see Beller, column 27 line 66 – column 28 line 24), computing (see Beller, column 21 lines 48-67) and formatting (see Beller, column 29 lines 59-64) are

automated, responsive to the step of receiving and otherwise substantially devoid of interaction with the user for receiving input (see Beller, column 9 lines 11-20 and Figure 6).

Referring to claims 5 and 19, Beller teaches receiving user input to enter the user data in a tabular format in advance of the step of receiving user input identifying desired analysis (see Beller, column 9 lines 11-20).

Referring to claims 6 and 20, Beller teaches transferring the user data entered in tabular format to a database (see Beller, column 16 lines 12-20).

Referring to claims 7 and 21, Beller teaches retrieving the user data from the database such that the user data is in a different format than the tabular format (see Beller, column 20 lines 4-21).

Referring to claims 8 and 22, Beller teaches receiving user input identifying the desired analysis as one or more of mean of the response, standard deviation of a function response (see Beller, column 21 lines 48-56), or percentiles of a function response (see Beller, column 21 lines 58-63).

***Allowable Subject Matter***

5. Claims 1-3, 9-17, 23-31 allowed.

6. The following is a statement of reasons for the indication of allowable subject matter:

Claims 1-3 are allowable over the prior art because a computer system user interface for statistical analysis comprising: a configuration and control display screen configured to receive user input selecting a particular statistical analysis to be performed on the tabular data, wherein the statistical analysis is configured to find at least one statistically significant factor affecting a given response within the user input data based on the particular statistical analysis selected through the configuration and control display screen is not found, taught or suggested in the prior art of record.

Claims 9-17 and 23-31 are allowable over the prior art because a method comprising: automatically performing the indicated statistical analysis for all indicated elements without further interaction wherein the statistical analysis identifies a significant factor in the tabular data; and generating results of the statistical analysis in a result page of the plurality of pre-defined pages wherein the results identify the significant factor is not found, taught or suggested in the prior art of record.

7. Claims 33, 34, 36, 47 and 49 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

8. Applicant's arguments filed 29 November 2006, with respect to claims 4-8 and 18-22, have been fully considered but they are not persuasive.

Applicant argues that Beller does not teach "wherein the steps of retrieving, reformatting, computing and formatting are automated, responsive to the step of receiving and otherwise substantially devoid of interaction with the user for receiving input." However, Applicant's arguments are not well taken. Beller teaches a process selected and initiated by a user (see Beller, column 9 lines 11-20). Once the process is initiated, data is retrieved from a database and output to and reformatted in an Excel spreadsheet (see Beller, column 27 line 66 – column 28 line 24), processed by the computer (see Beller, column 21 lines 48-67) and then output in a formatted report (see Beller, column 29 lines 59-64). Therefore, Beller teaches that the steps of retrieving and reformatting (see Beller, column 27 line 66 – column 28 line 24), computing (see Beller, column 21 lines 48-67) and formatting (see Beller, column 29 lines 59-64) are automated, responsive to the step of receiving and otherwise substantially devoid of interaction with the user for receiving input (see Beller, column 9 lines 11-20 and Figure 6).

***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary Kate B. Baran whose telephone number is (571)

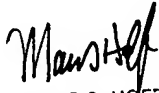
Art Unit: 2857

272-2211. The examiner can normally be reached on Monday - Friday from 9:00 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc S. Hoff can be reached on (571) 272-2216. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

28 February 2007

  
MARC S. HOFF  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800